

**FINAL REPORT
OF THE
NATURAL RESOURCES
STUDY COMMITTEE**



**Indiana Legislative Services Agency
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November 2007

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Natural Resources Study Committee

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November 1, 2007

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

FINAL REPORT

Natural Resources Study Committee

I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES

IC 2-5-5-3 requires the committee to conduct a continuing study of the laws relating to the Department of Natural Resources (DNR) to the end that legislation may be proposed to better serve the citizens of Indiana. The Committee must consult with DNR representatives and Indiana citizens for the purpose of proposing legislation to accomplish the following:

- (a) repeal of outmoded or unnecessary laws;
- (b) consolidation and restatement of existing laws;
- (c) improved coordination of state laws with federal laws; and
- (d) addition or amendment of laws that will further the purpose for which the DNR was created.

IC 2-5-5-3 also requires the Committee to advise and assist the DNR in programming its activities and in developing a long-range plan for land acquisition, capital improvement, and development of facilities.

IC 14-25-7-16 requires the Committee to oversee the Water Resource Management Program.

The Legislative Council also assigned the following additional topics to the Committee:

- A. Impact of invasive species in Indiana (HCR 86 and SCR 75)
- B. Indiana's archaeological and burial ground laws (HR 103)

II. INTRODUCTION AND REASONS FOR STUDY

The Natural Resources Study Committee met to carry out its statutory responsibilities and to consider the topics assigned by the Legislative Council.

III. SUMMARY OF WORK PROGRAM

The Committee met four times during the 2007 interim. Meetings were held as follows:

- 1. July 26th, State House, Indianapolis
- 2. September 11th and 12th, Falls of the Ohio State Park, Clarksville
- 3. October 3rd and 4th, Brown County State Park, Nashville
- 4. October 30th, Ft Harrison State Park, Lawrence

IV. SUMMARY OF TESTIMONY

Great Lakes Compact. Ron McAhrn, DNR Deputy Director, provided an overview of the Great Lakes Compact. The compact establishes conservation and efficiency goals. The compact allows for voluntary efficiency measures for existing withdrawals. New permits would require a conservation plan as part of the permit process. John Goss, Executive Director, Indiana Wildlife Federation (IWF), supported the Compact. Lynn Dennis, Director of Government and Community Relations, The Nature Conservancy (TNC), also supported the

Compact.

Fairfield Ramp at Brookville Lake. The ramp has been the site of three fatalities—one in 1999, one in 2006, and one in 2007. John Davis, DNR Deputy Director, discussed improvements that have been made at the ramp to warn or detour drivers. Bob Felix, Property Manager, explained the history of incidents at the ramp. Tom Holman, DNR Engineer, met with families of the deceased, law enforcement, INDOT, and others to come up with recommendations to fix the problem.

Apprentice License Program. Jack Corpuz, Pheasants Forever, proposed an apprentice license program which would provide youth and adults, prior to having obtained a hunting license and prior to completing hunter education requirements, the ability to hunt with an adult mentor. Mike Crider, DNR Law Enforcement, indicated that there would be no extended liability as a result of the program. Mr. Goss, IWF, noted that local conservation clubs support the program. Randy Sholwalter, Wild Turkey Foundation, also supported the program.

Invasive Species. Ms. Dennis, TNC, and Mr. Goss referred the Committee to HCR 75, which required the Committee to establish a task force to study the economic and environmental impacts of invasive species. Ellen Jacquart, TNC, explained the importance of prevention of the introduction of invasive species. Keith Ruple, Vigo County Parks Department, described problems and prevention measures taken to eliminate or reduce the invasive honeysuckle bush. Ray Moistner, Indiana Hardwood Lumbermen's Association, suggested that the state forester be on the task force. Ms. Dennis provided a list of potential members.

Historic Rehabilitation Tax Credit. Jeff Papa, Indiana Historic Landmarks Foundation (HLF), provided an overview of the Historic Rehabilitation Tax Credit Program. The program limits the credit to \$100,000 per project. The total amount of credits for each year is limited to \$450,000. This annual cap has led to a backlog of applications. Statute does not require an accounting of the use of the credit. Bob Bates, developer of historical buildings, encouraged establishing a credit that can be used for smaller projects. Jim Glass, DNR Division of Historic Preservation and Archeology, stated that the credit needs to be tracked by the Department of Revenue. Dan Terrill, Indiana Office of Community and Rural Affairs, indicated that his office would like to ensure that smaller rural communities receive a percentage of the credit. Ms. Dennis supported the program because it reuses existing lands and saves green spaces. Bill Sheldrake, Policy Analytics, provided an overview of a report entitled "An Analysis of the Indiana Historic Rehabilitation Tax Credit." Marsh Davis, HLF, recommended raising the cap from \$450,000 to \$2.5 M; making credits transferable; and fixing the backlog by allowing those awarded credits to claim the credit at a reduced value.

Courthouse Preservation. Mr. Papa discussed the need for a courthouse and public building preservation and maintenance program. Wayne Goodman proposed an advisory commission to provide assistance to courthouse projects. Joe Jarzen, Indiana National Road Driving Tour Guide, supported the establishment of the commission and provided exhibits that detail historic buildings in the surrounding areas. Don Von DerMuelen, Franklin County Commissioner, wanted good communication between the state and counties. Mr. Glass stated that the DNR provided a limited number of grants and helps local courthouses obtain a listing as an historic landmark. Greg Setula, HLF southern office, supported the creation of a commission. Kevin Cox, Randolph County, stated that his county could have used outside expertise in making local restoration decisions.

Falls of the Ohio Foundation. Dani Cummins, Executive Director of the Falls of the Ohio

Foundation, provided an overview of the Foundation. The Foundation helped raise money to build the interpretive center at the Falls of the Ohio. The center is in need of expansion and remodeling. Diane Swank, President of the Foundation, introduced board members as well as Steve Noll, Park Manager since 1996. The Foundation asked for state funding, in addition to private funding, for its expansion projects.

Archeology and Burial Grounds. Rep. Matt Pierce proposed changes to the statute governing archeological finds and burial grounds. He proposed establishing a fund that would provide assistance to homeowners who accidentally find artifacts; streamlining the review process through updated technology and digital maps; enforcement enhancements to cover looting of prehistoric remains; and changing the year from 1816 to 1870 in the definition of an artifact. He also proposed a technical change concerning the definition of a conservation officer. Karie Brudis, DNR Division of Historic Preservation and Archeology, explained the progress the DNR has made in terms of providing digital records. Cheryl Munson, Indiana State Archeology Council, supported the proposal. Roger Stevens, Indiana Builders Association, liked the basic bill, noting that his association's concerns were being addressed.

Hunting and Selling of Live Coyotes for Dog Running. Michael Crider, DNR Director of Law Enforcement, explained that trappers have been capturing coyotes and shipping live coyotes to other states. Undercover operations seized one shipment of coyotes that contained over 33 different pathogens, such as tapeworms, parasites, rabies, parvo, etc. A proposed new rule would define what can happen to coyotes that are trapped and define "take". The DNR would prefer that the animals be disposed of humanely within 24 hours. The DNR will hold three public hearings. Coyotes are transferred to other states or locations and used in dog hunts, sometimes in confined areas where the coyote has little chance of survival. The International Fish and Wildlife Association does not support the movement of wild animals across states. Most states are trying to eliminate the practice. The practice creates enforcement problems as well as ethical concerns. Rep. Bischoff read an article from a local newspaper pertaining to a coyote attack on a woman's dog. Chris Gambill, a trapper, explained that trappers want to make money. Tim Rose, Indiana Fur Takers of America, wanted to allow trappers to capture and sell coyotes. Robert Alundt, veterinarian, indicated that live coyotes can be sold for \$200 each. Bill Crum, Director of the Indiana State Trappers Association, explained that a trapping license and a nuisance license have different requirements. Tim Julien, National Wildlife Control Operators Association, wants a fur-trapping public season in the winter and a private property season year round.

CeAnn Lambert, Indiana Coyote Rescue Center, explained that it is inhumane to sell coyotes to dog run parks. Often coyotes that are trapped are transported in small cages where they might not be able to stand or move around. After being kept in these cages, it is difficult for the coyote to run when it is released, particularly in unfamiliar territory. The coyote ends up being killed by the dogs in a manner that is worse than what happens in dog-fighting activities that Michael Vick is accused of conducting. Saul Limke, farmer, opposed selling coyotes to dog runners. If the state condones such inhumane practices, the image of the state could suffer. Outside businesses that may want to relocate in Indiana may see the state as backward due to its participation in such barbaric practices.

Todd Sellers, Fur Takers of America, noted that dog runs are used to train dogs. Sen. Lewis noted that the DNR has general rule-making authority to adopt rules pertaining to hunting. He did not think that open season on coyotes was intended to transport coyotes out of the DNR jurisdiction. John Davis, DNR Deputy Director, explained that rules can not supercede the Indiana code, but are used to clarify statute or implement the statute.

Best Management Practices (BMPs). John Seifert, State Forester, noted that Indiana has had a voluntary program since 1998. BMPs help prevent erosion control and soil compaction. BMPs certify that environmental practices are being met during logging. BMPs are minimum requirements used to protect air and water quality as well as wildlife habitat. Certification assures the public that the surrounding environment is not degraded and that wildlife species of concern are not endangered when the trees are logged.

Phillip Gramelbacher, President, Indiana Forestry and Woodland Owners Association, and Jasper Desk, explained that certain purchasers require certification that the lumber is harvested in a manner that is friendly to the environment. His organization would like to continue to work with the proposal. His association encourages the state to be a leader in sustainable woods and environmentally processed wood. Tom Tremain, Woodland Foresters Association, noted that BMPs increase the value of Indiana's product; increase forest diversity; and results in better water quality and other environmental features.

Sam Bond, C.S. Bond Forest Management, suggested that poor logging practices damage the current harvest as well as future harvests. Robert Kennig, citizen, noted that logging has never caused more than 4% of water pollution problems. Bruce Wakeland, forestry consultant, argued that BMPs would increase costs. Leroy Patton, Kron Lumber Company, explained that BMPs would hurt small logging operations. Bill Carey, farmer, objected to training requirements for owners of private property who cut down their own trees. Kebe Sheets, farmer, noted that there was no federal mandate.

Dan Shaver, TNC, explained that every state with a forestry program has BMPs; however, the practices are not followed as well as loggers suggest. BMP loggers are at a disadvantage. The decrease in the amount of sediment that results from the use of BMPs is critical to protect the viability of the water. Troy Law, logger, noted that Kentucky BMPs laws are not effective. Lynn Andrews, Indiana Society of American Foresters, provided a position statement from the organization. Joe Schuerman, consulting forester, did not support BMPs. Gabe Blevins, a logger with a small logging operation, did not believe that the costs associated with BMPs were significant and noted that the industry is moving toward "green" lumber. Aaron Wilhoit, Indiana Forest Industry Council (IFIC), indicated that the IFIC supports training and continuing education. The wording of the proposal may need to be clarified.

Ownership of Exotic Animals. Ann Sterling, Indiana State Director of the Humane Society of the U.S., stated that Indiana has limited regulations and only requires a permit for Class 3 animals, which include exotic cats, bears, wolves, venomous snakes, and crocodilians over 5 feet long. For other wild animals, such as non-human primates, there is no statewide prohibition or regulation. Private ownership of wild animals threatens public health and safety as well as the health and safety of the animal. She recommends that the list of animals under a Class 3 permit be expanded with a prohibition against the acquisition of new exotic animals. The U.S. Department of Agriculture (USDA) regulates people who exhibit animals for commercial purposes. People with a USDA license are exempt from having to acquire a state permit. In Indiana, 71 people have a Class 3 permit. At least 25 states prohibit keeping certain dangerous wild animals as pets. She supported the dual permit authorization for the DNR. The DNR should be able to react to reports of poor care.

Don Elroy, Director of Wildlife Advocacy, Humane Society of the U.S., stated that a permit system offers limited protection for the animals and public. He recommends the prohibition of private ownership with a grandfather clause. He also recommends the prohibition of all breeding or acquiring of new animals.

Ryan Hoff, DNR Legislative Liaison, indicated that the DNR would like to see dual permitting of certain animals, adding state requirements to the federal license. The DNR can add animals to the Class 3 permit list by rule.

Tim Hendrickson, J&J Camels, believes that regulation will drive illegal activities involving the care of exotic animals underground. If the activity is illegal and the animal gets sick, the animal will suffer because the individual will likely not seek assistance. Jeff Watson, USDA wild animal handler, stated that in Indiana there are only two USDA inspectors who only write violations. The DNR should be able to enforce corrections of the violations.

“Snakehead” Ed Ferrer, Hoosier Herpetological Society, indicated that he did not oppose the proposal if it did not expand the lists to include reptiles. Roger Carter, Hoosier Herpetological Society, noted that anyone who would ignore existing laws will ignore any future laws. “Jungle” John Cusson, Silly Safaris, stated that more hurdles may not be needed. DNR needs to enforce the Animal Welfare Act. Mr. Hoff indicated that the DNR needs dual permit authorization in order to have oversight and to be able to respond quickly to animal abuse.

Fishing and Hunting Opportunities at Big Oak. Mr. Hoff explained that Big Oak is a federal property and that Indiana would not be able to expand fishing and hunting opportunities at Big Oak because it is not regulated by the state. Many areas in Big Oak have unexploded ordnance.

Epizootic Hemorrhagic Disease (EHD) in the Deer Population. Jack Steward, DNR Deer Biologist, described the prevalence of EHD in deer. A study conducted in Missouri found a 6% to 16% reduction in the deer herd in affected areas. A West Virginia study found a 20% reduction in the herd. There is no evidence that EHD can be transmitted to humans either through the fly or through the deer or the consumption of deer meat.

Captive Deer Lawsuit. Adam Warnke, DNR Chief Legal Counsel, explained that in 2005 a DNR rule proposed to clarify that captive deer hunting was illegal. A lawsuit was filed. An injunction was given in 2006 to the operator. There have been settlement discussions.

Raccoon Hunting with Hounds. Jerry Mull, raccoon hunter, supported unrestricted hunting with raccoon hounds. Currently, only raccoon hunting dogs are restricted from hunting during a 40-day period. Mr. Hoff explained that the DNR will maintain a neutral stance on the issue until a compromise is reached between raccoon hunters and other hunting interest groups. Glenn Salmon, DNR Fish & Wildlife Division, explained that there is no biological reason for the restriction. In August the DNR Advisory Council took no position on the issue. Doug Allman, Indiana Deer Hunters Association, explained that dogs flush deer from small wooded lots. If dogs are run during the trapping season, trappers run the risk of trapping the dogs. Mr. Allman described the decreasing access to hunting on private property due to development, acquisition by corporations, and the leasing of land for trophy hunting.

Entry Fees at State Parks. John Bergman, Assistant Director for Operations, DNR Division of State Parks and Reservoirs, stated that \$6.2 M was collected in 2006 from entry fees. This year fees are up 7%. Fees last changed in 2006.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee made the following findings and recommendations:

Invasive Species Task Force. The Committee established membership to the task force, which was established to study the economic and environmental impacts of invasive species.

Great Lakes Compact. The compact is an agreement among the Great Lakes states and certain Canadian provinces pertaining to the uses of the water in the Great Lakes. The Committee voted 6-0 to endorse the concept of the compact and to recommend it to the 2008 General Assembly.

Falls of the Ohio Resolution. PDoc2008.1299 encourages the DNR to request funds for expansion of the Falls of the Ohio Interpretative Center in the DNR's 2009-2011 budget request. The Committee voted to recommend the resolution by a vote of 6-0.

Proposed Legislation. The Chair noted that 5 affirmative votes were needed to receive the Committee's recommendation.

Burial Grounds and Archeology. PD 3399 redefines "artifact", and changes the date used in determining whether an object or feature is an artifact. It redefines "burial ground" to include certain historic sites. It redefines "plan" to include a plan for excavation of ground related to construction. It also exempts qualified professional archeologists who conduct phase 1 archeological surveys from certain archeological restrictions. It establishes criminal penalties for certain actions that disturb human remains. It requires the DNR to take action on archeology and development plans within 60 days. It requires a person disturbing ground to use reasonable care and diligence to determine if the ground that may be disturbed is within 100 feet of a cemetery or burial ground. The bill requires a person who disturbs buried human remains or artifacts to cease disturbing the remains or artifacts and the surrounding area within 100 feet, and makes it a Class A infraction to fail to do so. It includes excavating or covering over the ground a prohibited activity within 100 feet of the limits of a cemetery or burial ground. It also establishes certain requirements for development plans and archeological plans. The bill establishes boundary limits for burial sites. It applies certain notice requirements to a person who disturbs burial grounds. It requires a person to stop disturbing the ground near a discovered artifact or burial object for ten business days after notifying the DNR. It makes certain reports concerning the location of historical or archeological sites confidential. It allows certain persons to accompany a conservation officer to investigate a violation of the Historic Preservation and Archeology Law. It establishes a fund to assist private homeowners who accidentally discover an artifact, a burial object, or human remains and need assistance to comply with an approved archeological or development plan. It allows a court to order restitution for certain costs related to the violation of the Historic Preservation and Archeology Law. The bill makes it a Class D felony to possess looted property and a Class C felony if the cost of carrying out an archeological investigation on the site that was damaged to obtain the looted property is more than \$100,000. It provides that disinterment under a plan approved by the DNR is exempt from other disinterment procedures. It repeals and relocates the definition of "conservation officer". The bill makes conforming changes. It also makes an appropriation.

The Committee voted to recommend the concepts in the draft by a vote of 5-0.

Historic Courthouse Advisory Commission. PD 3305 establishes the Courthouse Preservation Advisory Commission. It requires the commission to provide assistance for courthouse-related projects. It establishes the Courthouse Preservation Fund. It requires the commission to submit a report to the Legislative Council. It makes conforming changes.

The Committee did not recommend the proposal by a vote of 4 in favor and 2 opposed.

Apprentice License. PD 3404 establishes an apprentice hunting license that allows an individual to hunt when accompanied by a hunter who is at least 18 years of age. The apprentice hunter is not required to take the hunter education course and may not obtain more than three apprentice licenses in the individual's lifetime.

The Committee voted to recommend the draft by a vote of 6-0.

Dual Exotic Animal Permit Authorization for the DNR. PD 3392 removes the exemption of licensed commercial animal dealers from the requirement of possessing a wild animal permit. The proposal exempts certain research facilities, educational facilities, and other organizations from the requirement of possessing a wild animal permit.

The Committee did not recommend the proposal by a vote of 3 in favor and 3 opposed.

Final Report. Sen Lewis made a motion that the draft of the final report be adopted with the inclusion of the work of the Committee during its final meeting.

The Committee voted to adopt the final report with a vote of 6-0.

WITNESS LIST

Doug Allman, Indiana Deer Hunters Association
Robert Alundt, Veterinarian
Lynn Andrews, Indiana Society of American Foresters
Bob Bates, Developer of Historical Buildings
John Bergman, Assistant Director for Operations, DNR Division of State Parks and Reservoirs
Gabe Blevins, Logger
Sam Bond, C.S. Bond Forest Management
Dan Bortner, DNR Director of State Parks and Reservoirs
Karie Brudis, DNR Division of Historic Preservation and Archeology
Bill Carey, Farmer
Rob Carter, DNR Director
Roger Carter, Hoosier Herpetological Society
Jack Corpuz, Pheasants Forever
Kevin Cox, Randolph County
Mike Crider, DNR Director of the Division of Law Enforcement
Bill Crum, Director of the Indiana State Trappers Association
Dani Cummins, Executive Director of the Falls of the Ohio Foundation
“Jungle” John Cusson, Silly Safaris
John Davis, DNR Deputy Director
Mark Davis, HLF President
Lynn Dennis, The Nature Conservancy
Don Elroy, Director of Wildlife Advocacy, Humane Society of the U.S.
Bob Felix, Brookville Reservoir Property Manager
“Snakehead” Ed Ferrer, Hoosier Herpetological Society
Chris Gambill, Trapper
Jim Glass, DNR Division of Historic Preservation and Archeology
Wayne Goodman
John Goss, Indiana Wildlife Federation
Phillip Gramelbacher, President, IN Forestry & Woodland Owners Association, & Jasper Desk
Tim Hendrickson, J&J Camels
Ryan Hoff, DNR Legislative Liaison
Tom Holman, DNR Engineer
Ellen Jacquart, TNC
Joe Jarzen, Indiana National Road Driving Tour Guide
Tim Julien, National Wildlife Control Operators Association
Robert Kennig, Citizen
CeAnn Lambert, Indiana Coyote Rescue Center
Saul Limke, Farmer
Ron McAhron, DNR Deputy Director
Dick Mercier, Indiana Sportsmen’s Roundtable
Ray Moistner, Indiana Hardwood Lumbermen’s Association
Jerry Mull, Raccoon Hunter
Cheryl Munson, Indiana State Archeology Council
Steve Noll, Park Manager, Falls of the Ohio State Park
Jeff Papa, HLF
Leroy Patton, Kron Lumber Company
The Honorable State Representative Matt Pierce
Tim Rose, Indiana Fur Takers of America
Keith Ruple, Vigo County Parks Department

Glenn Salmon, DNR Fish & Wildlife Division
Joe Schuerman, Consulting Forester
John Seifert, State Forester, Director DNR Division of Forestry
Todd Sellers, Fur Takers of America
Greg Setula, HLF Southern Office
Dan Shaver, TNC
Kebe Sheets, Farmer
Bill Sheldrake, Policy Analytics
Randy Sholwalter, Wild Turkey Foundation
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Dan Terrill, Indiana Office of Community and Rural Affairs
Tom Tremain, Woodland Foresters Association
Don Von DerMuelen, Franklin County Commissioner
Bruce Wakeland, Forestry Consultant
Adam Warnke, DNR Chief Legal Counsel
Jeff Watson, USDA wild animal handler
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